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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,966	05/10/2006	Gebhard Rudolf Huckfeldt	GMH/438/PC/US	8558
2543	7590	02/23/2009		
ALIX YALE & RISTAS LLP 750 MAIN STREET SUITE 1400 HARTFORD, CT 06103			EXAMINER JACOBSON, MICHELE LYNN	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			02/23/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,966	<b>Applicant(s)</b> HUCKFELDT, GEBHARD RUDOLF	
	<b>Examiner</b> MICHELE JACOBSON	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/10/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Examiner's Notes***

1. Any objections and/or rejections made in the previous action, and not repeated below, are hereby withdrawn. The enablement rejection under 35 USC 112 first paragraph previously set forth is now moot in view of the cancellation of claims 11 and 12. Applicants' amendments have overcome the rejections under 35 USC 112, second paragraph set forth in the previous rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-10, 13, 14, 16-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Froehlich et al. U.S. Patent No. 3,928,651 (hereafter referred to as Froehlich)
4. Froehlich teaches a reticulated net (such as a stockinette) for holding a meat product shaped into the form of a tubular casing formed from collagen filaments. (Col. 2, lines 60-65, Col. 3, lines 35-38) The collagen string has sufficient strength to hold the meat product together during cooking but becomes tender and soft during the cooking cycle. (Col. 1, lines 52-55).

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5. The stockinette recited by Froehlich is interpreted by the examiner to be equivalent to the knitted fabric recited by applicant in claims 1 and 8. Claims 1 and 8 recite "a packaging casing for a sausage casing" which is interpreted by the examiner to be an intended use limitation. As such, a packaging casing that would be capable of functioning as a casing for a sausage casing meets the limitations of claims 1 and 8.

The stockinette recited by Froehlich would be able to function as a casing for a sausage casing and therefore meets the intended use limitations recited in claims 1 and 8.

6. Since the collagen filaments used to make the stockinette become soft during cooking, the filaments recited by Froehlich are interpreted to be equivalent to the release thread recited by applicant in claims 1 and 8 and each of the filaments is interpreted to comprise a seam in the region of the stockinette these filaments hold together which is interpreted to be equivalent to the at least one seams recited in claims 1 and 8. As such, Froehlich anticipates a casing comprising temperature sensitive thread with a plurality of longitudinal seams that determines the shape of the meat (sausage) article packaged as recited in claims 1-3, 7-10, 13, 17 and 18.

7. Regarding claims 5, 14, 15 and 20: The stockinette recited by Froehlich softens as a result of cooking. The recitation of "embrittlement" in claims 5, 14 and 15 is interpreted by the examiner to encompass softening since softening of the filament would allow it to be more easily broken. As such Froehlich anticipates the limitation of the loss of strength of the thread being based on embrittlement as recited in claims 5, 14 and 15. Therefore Froehlich also anticipates a casing net with a plurality of seams as recited in claim 20.

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8. Regarding claims 6 and 16: Collagen filaments such as those recited by Froehlich would be expected to be soluble in acid solution. As such, the stockinettes recited by Froehlich meet the limitation of being soluble in "a treatment medium" as recited in claims 6 and 16. Since applicant does not specify what treatment medium claims 6 and 16 are intended to encompass a thread soluble in any treatment medium meets the limitations of these claims.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer U.S. Patent No. 6,180,150 (hereafter referred to as Schafer) and Rueckert U.S. Patent No. 2,698,800 (hereafter referred to Rueckert).

11. Schafer teaches the removal of netting surrounding a sausage product by the dissolution of a cellulose adhesive disposed between the netting and the sausage casing. (Col. 1, line 65-Col. 2, line 3) The net is recited to be generally felt to be unaesthetic and disturbing on the finished sausage product and is therefore desired to be removed. The removal of the net by pulling it off takes place after cooking of the sausage or meat product. (Col. 3, lines 16-20) The net recited is preferable a coarse or fine meshed fabric, or knit. (Col. 2, lines 49-50)

12. Schafer is silent regarding a thermoplastic release thread.

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13. Rueckert teaches a synthetic binding thread for use in shaping meat products that is dissolvable or disintegratable at cooking temperatures. (Col. 1, lines 63-66) A synthetic string such as polyvinyl alcohol resin is recited to be dissolved by heat. (Col 1, lines 71-72 and Col. 2, lines 19-21) The string recited permits an item such as a cooked roast to retain its desired shape, but under continued heating at cooking temperatures dissolves and disintegrates so that no messy string need be cut away from the meat. (Col. 2, lines 31-35) The string is recited to be useful in the production of sausage as the string separating sausage links. (Col. 2, lines 42-44)

14. Both Rueckert and Schafter are directed towards inventions for the binding of meat products during cooking. The motivation to combine the heat sensitive string of Rueckert with the netting recited by Schafter would have been to simplify the removal of the netting recited by Schafter. Netting produced using a thread along a seam such as that disclosed by Rueckert would be even easier to remove from the sausage casing after cooking since the seam would release causing the netting to fall away from the casing when the adhesive recited by Schafter was dissolved. Such a process would make the step of pulling the netting off the casing unnecessary, thereby simplifying the process of the removing the netting.

15. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a thread such as that recited by Rueckert for a seam, or a plurality of threads of the netting recited by Schafter in order to simplify the process of net removal. The disposition of such a thread in the invention of Schafter would have produced the invention as claimed in claims 4 and 19.

***Response to Arguments***

16. Applicant's arguments filed 11/25/08 have been fully considered but they are not persuasive.

17. Applicant asserts on page 8 of the remarks that Froehlich is completely silent regarding the provision of a seam in the casing and of the provision of a release thread that is removed to open the casing. However, as stated in the previous rejection, the filaments recited by Froehlich are interpreted to meet the limitation of "at least one seam with a release thread" since each filament of the stockinette can be interpreted to be a release thread defining a seam.

18. Applicant asserts on page 8 of the remarks that "a person skilled in the art would not remove any string of stockinette on the meat product of Froehlich prior to consumption. On the other hand, according to the present invention, the release thread is used to open the packaging casing that is then removed". However, applicant's claims never state that the packaging casing is *removed*, only that the packaging casing is *opened*. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As such, applicant's assertions that Froehlich does not anticipate the claimed invention are not found persuasive.

19. Applicant asserts on page 10 of the remarks that Rueckert does not disclose a knitted fabric. However, note that while Rueckert do not disclose all the features of the present claimed invention, Rueckert is used as teaching reference, and therefore, it is

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not necessary for this secondary reference to contain all the features of the presently claimed invention, *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973), *In re Keller* 624 F.2d 413, 208 USPQ 871, 881 (CCPA 1981). Rather this reference teaches a certain concept, namely, the use of a dissolvable string around meat in order to retain its desired shape, but under continued heating at cooking temperatures the string dissolves and disintegrates so that no messy string need be cut away from the meat and in combination with the primary reference, discloses the presently claimed invention.

20. Applicant asserts on page 10 of the remarks that Schafer and Rueckert use completely different approaches for the removal of the support structures used during cooking. However, both Schafer and Rueckert utilize the concept of support components that dissolve during cooking. Therefore, applicant's assertion on page 10 of the remarks that "one skilled in the art would not be lead to combine the Rueckert and Schafer disclosures as proposed by the examiner since the basic approaches of the two disclosures are entirely different." Is not found persuasive. The examiner further notes that it is not necessary for two pieces of art to utilize the same basic approaches in order to be analogous. Both Schafer and Rueckert are directed to the same field of endeavor, namely providing support structures to meat while it cooks. Schafer and Rueckert establish that it was known in the art at the time the invention was made to use netting with dissolvable adhesive and string that is dissolvable. The obvious combination of these two concepts would have resulted in a netting structure made of a dissolvable thread. While these patents do not disclose a "release thread" as stated, a



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netting produced from the dissolvable thread can be interpreted to be comprised of all “release thread” each of which can be interpreted to define a seam.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELE JACOBSON whose telephone number is (571)272-8905. The examiner can normally be reached on Monday-Thursday 8:30 AM-7 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/  
Supervisory Patent Examiner, Art Unit 1794

Michele L. Jacobson  
Examiner /M. J./  
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